

By: Canales

H.B. No. 3514

Substitute the following for H.B. No. 3514:

By: Thompson of Brazoria

C.S.H.B. No. 3514

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the functions of the Texas Department of Motor
3 Vehicles; authorizing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 306.001(9), Finance Code, is amended to
6 read as follows:

7 (9) "Qualified commercial loan":

8 (A) means:

9 (i) a commercial loan in which one or more
10 persons as part of the same transaction lends, advances, borrows,
11 or receives, or is obligated to lend or advance or entitled to
12 borrow or receive, money or credit with an aggregate value of:

13 (a) \$3 million or more if the
14 commercial loan is secured by real property; or

15 (b) \$250,000 or more if the commercial
16 loan is not secured by real property and, if the aggregate value of
17 the commercial loan is less than \$500,000, the loan documents
18 contain a written certification from the borrower that:

19 (1) the borrower has been
20 advised by the lender to seek the advice of an attorney and an
21 accountant in connection with the commercial loan; and

22 (2) the borrower has had the
23 opportunity to seek the advice of an attorney and accountant of the
24 borrower's choice in connection with the commercial loan; and

1 (ii) a renewal or extension of a commercial
2 loan described by Subparagraph (i) [~~Paragraph (A)~~], regardless of
3 the principal amount of the loan at the time of the renewal or
4 extension; and

5 (B) does not include a commercial loan made for
6 the purpose of financing a business licensed by the [~~Motor Vehicle~~
7 ~~Board of the~~] Texas Department of Motor Vehicles under Section
8 [2301.251\(a\)](#), Occupations Code.

9 SECTION 2. Section [572.003\(c\)](#), Government Code, is amended
10 to read as follows:

11 (c) The term means a member of:

- 12 (1) the Public Utility Commission of Texas;
- 13 (2) the Texas Commission on Environmental Quality;
- 14 (3) the Texas Alcoholic Beverage Commission;
- 15 (4) the Finance Commission of Texas;
- 16 (5) the Texas Facilities Commission;
- 17 (6) the Texas Board of Criminal Justice;
- 18 (7) the board of trustees of the Employees Retirement
19 System of Texas;
- 20 (8) the Texas Transportation Commission;
- 21 (9) the Texas Department of Insurance;
- 22 (10) the Parks and Wildlife Commission;
- 23 (11) the Public Safety Commission;
- 24 (12) the Texas Ethics Commission;
- 25 (13) the State Securities Board;
- 26 (14) the Texas Water Development Board;
- 27 (15) the governing board of a public senior college or

1 university as defined by Section 61.003, Education Code, or of The
2 University of Texas Southwestern Medical Center, The University of
3 Texas Medical Branch at Galveston, The University of Texas Health
4 Science Center at Houston, The University of Texas Health Science
5 Center at San Antonio, The University of Texas M. D. Anderson Cancer
6 Center, The University of Texas Health Science Center at Tyler,
7 University of North Texas Health Science Center at Fort Worth,
8 Texas Tech University Health Sciences Center, Texas State Technical
9 College--Harlingen, Texas State Technical College--Marshall, Texas
10 State Technical College--Sweetwater, or Texas State Technical
11 College--Waco;

12 (16) the Texas Higher Education Coordinating Board;

13 (17) the Texas Workforce Commission;

14 (18) the board of trustees of the Teacher Retirement
15 System of Texas;

16 (19) the Credit Union Commission;

17 (20) the School Land Board;

18 (21) the board of the Texas Department of Housing and
19 Community Affairs;

20 (22) the Texas Racing Commission;

21 (23) the State Board of Dental Examiners;

22 (24) the Texas Medical Board;

23 (25) the Board of Pardons and Paroles;

24 (26) the Texas State Board of Pharmacy;

25 (27) the Department of Information Resources
26 governing board;

27 (28) the board of the Texas Department of Motor

1 Vehicles [~~Motor Vehicle Board~~];

2 (29) the Texas Real Estate Commission;

3 (30) the board of directors of the State Bar of Texas;

4 (31) the Bond Review Board;

5 (32) the Health and Human Services Commission;

6 (33) the Texas Funeral Service Commission;

7 (34) the board of directors of a river authority
8 created under the Texas Constitution or a statute of this state;

9 (35) the Texas Lottery Commission; or

10 (36) the Cancer Prevention and Research Institute of
11 Texas.

12 SECTION 3. Section 2301.453(c), Occupations Code, is
13 amended to read as follows:

14 (c) Except as provided by Subsection (d), the manufacturer,
15 distributor, or representative must provide written notice by
16 registered or certified mail to the dealer and the board stating the
17 specific grounds for the termination or discontinuance. The notice
18 must:

19 (1) be received not later than the 60th day before the
20 effective date of the termination or discontinuance; and

21 (2) contain on its first page a conspicuous statement
22 that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST
23 WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES [~~VEHICLE BOARD~~] IN
24 AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE
25 PROPOSED TERMINATION OR DISCONTINUANCE OF YOUR FRANCHISE UNDER THE
26 TERMS OF CHAPTER 2301, OCCUPATIONS CODE, IF YOU OPPOSE THIS
27 ACTION."

1 SECTION 4. Section 2301.454(b), Occupations Code, is
2 amended to read as follows:

3 (b) The notice required by Subsection (a)(1) must:

4 (1) be given not later than the 60th day before the
5 date of the modification or replacement; and

6 (2) contain on its first page a conspicuous statement
7 that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST
8 WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES [~~VEHICLE BOARD~~] IN
9 AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE
10 PROPOSED MODIFICATION OR REPLACEMENT OF YOUR FRANCHISE UNDER THE
11 TERMS OF CHAPTER 2301, OCCUPATIONS CODE, IF YOU OPPOSE THIS
12 ACTION."

13 SECTION 5. Subchapter M, Chapter 2301, Occupations Code, is
14 amended by adding Section 2301.612 to read as follows:

15 Sec. 2301.612. OPEN RECORDS EXCEPTION. Information filed
16 with the department under this subchapter is not a public record and
17 is not subject to disclosure under Chapter 552, Government Code,
18 until the complaint is resolved by a final order of the department.

19 SECTION 6. Section 2301.711, Occupations Code, is amended
20 to read as follows:

21 Sec. 2301.711. ORDERS AND DECISIONS. (a) Except as
22 otherwise provided by this chapter, the [The] board or a [other]
23 person delegated final order authority under Section 2301.154 shall
24 issue final orders for the implementation and enforcement of this
25 chapter and Chapter 503, Transportation Code.

26 (b) An order or decision under this chapter must:

27 (1) include a separate finding of fact with respect to

1 each specific issue required by law to be considered in reaching a
2 decision;

3 (2) set forth additional findings of fact and
4 conclusions of law on which the order or decision is based;

5 (3) give the reasons for the particular actions taken;
6 and

7 (4) be signed by the presiding officer or assistant
8 presiding officer for the board, a ~~[or other]~~ person delegated
9 final order authority under Section [2301.154](#), or a hearings
10 examiner in a contested case hearing under Section [2301.204](#) or
11 Subchapter M.

12 SECTION 7. Section [2301.712\(b\)](#), Occupations Code, is
13 amended to read as follows:

14 (b) If a person who brings a complaint under Subchapter M
15 prevails in the case, the ~~[board or a person delegated power from~~
16 ~~the board under Section [2301.154](#) shall order the]~~ nonprevailing
17 party in the case shall ~~[to]~~ reimburse the amount of the filing fee
18 for the case.

19 SECTION 8. Section [2301.713\(c\)](#), Occupations Code, is
20 amended to read as follows:

21 (c) A motion for rehearing in a contested case under Section
22 [2301.204](#) or Subchapter M must be filed with ~~[and decided by]~~ the
23 chief hearings examiner. The chief hearings examiner may designate
24 a person to decide the motion.

25 SECTION 9. Section [23.121](#), Tax Code, is amended by amending
26 Subsection (h) and adding Subsection (h-1) to read as follows:

27 (h) If a dealer fails to file a declaration as required by

1 this section, ~~[or if, on the declaration required by this section, a~~
2 ~~dealer reports the sale of fewer than five motor vehicles in the~~
3 ~~prior year,]~~ the chief appraiser may ~~[shall]~~ report the dealer
4 ~~[that fact]~~ to the Texas Department of Motor Vehicles to ~~[and the~~
5 ~~department shall]~~ initiate cancellation of the dealer's general
6 distinguishing number ~~[termination proceedings]~~. The chief
7 appraiser shall include with the report written verification that
8 the chief appraiser informed the dealer of the requirement to file a
9 declaration under this section ~~[a copy of a declaration, if any,~~
10 ~~indicating the sale by a dealer of fewer than five motor vehicles in~~
11 ~~the prior year. A report by a chief appraiser to the Texas~~
12 ~~Department of Motor Vehicles as provided by this subsection is~~
13 ~~prima facie grounds for the cancellation of the dealer's general~~
14 ~~distinguishing number under Section 503.038(a)(9), Transportation~~
15 ~~Code, or for refusal by the Texas Department of Motor Vehicles to~~
16 ~~renew the dealer's general distinguishing number].~~

17 (h-1) If, on the declaration required by this section, a
18 dealer reports the sale of fewer than five motor vehicles in the
19 prior year, the chief appraiser shall report the dealer to the Texas
20 Department of Motor Vehicles to initiate cancellation of the
21 dealer's general distinguishing number. The chief appraiser shall
22 include with the report a copy of a declaration indicating the sale
23 by a dealer of fewer than five motor vehicles in the prior year. A
24 report by a chief appraiser to the Texas Department of Motor
25 Vehicles as provided by this subsection is prima facie grounds for
26 the cancellation of the dealer's general distinguishing number
27 under Section 503.038(a)(9), Transportation Code, or for refusal by

1 the Texas Department of Motor Vehicles to renew the dealer's
2 general distinguishing number.

3 SECTION 10. Section 201.805(a), Transportation Code, is
4 amended to read as follows:

5 (a) The department shall annually publish in appropriate
6 media and on the department's Internet website in a format that
7 allows the information to be read into a commercially available
8 electronic database a statistical comparison of department
9 districts and the following information, calculated on a per capita
10 basis considering the most recent census data and listed for each
11 county and for the state for each fiscal year:

- 12 (1) the number of square miles;
- 13 (2) the number of vehicles registered;
- 14 (3) the population;
- 15 (4) daily vehicle miles;
- 16 (5) the number of centerline miles and lane miles;
- 17 (6) construction, maintenance, and contracted routine
18 and preventive maintenance expenditures;
- 19 (7) combined construction, maintenance, and
20 contracted routine and preventive maintenance expenditures;
- 21 (8) the number of district and division office
22 construction and maintenance employees;
- 23 (9) information regarding grant programs, including:
 - 24 (A) ~~[Motor Vehicle Crime Prevention Authority~~
25 ~~grants,~~
 - 26 ~~[(B)]~~ Routine Airport Maintenance Program
27 grants;

1 (B) [~~(C)~~] Public Transportation Grant Program
2 grants;

3 (C) [~~(D)~~] Medical Transportation Program grants;
4 and

5 (D) [~~(E)~~] aviation grants or aviation capital
6 improvement grants;

7 (10) approved State Infrastructure Bank loans;

8 (11) Texas Traffic Safety Program grants and
9 expenditures;

10 (12) the dollar amount of any pass-through toll
11 agreements;

12 (13) the percentage of highway construction projects
13 completed on time;

14 (14) the percentage of highway construction projects
15 that cost:

16 (A) more than the contract amount; and

17 (B) less than the contract amount; and

18 (15) a description of real property acquired by the
19 department through the exercise of eminent domain, including the
20 acreage of the property and the location of the property.

21 SECTION 11. Section 503.009(b), Transportation Code, as
22 repealed by Chapter 1135 (H.B. 2741), Acts of the 83rd Legislature,
23 Regular Session, 2013, and amended by Chapter 1379 (H.B. 1692),
24 Acts of the 83rd Legislature, Regular Session, 2013, is reenacted
25 and amended to read as follows:

26 (b) The procedures applicable to a hearing conducted under
27 this section are those applicable to a hearing conducted under

1 Chapter 2301 [~~as provided by Section 2301.606~~], Occupations Code,
2 or Chapter 2001, Government Code.

3 SECTION 12. Section 520.063, Transportation Code, is
4 amended to read as follows:

5 Sec. 520.063. EXEMPTIONS. The following persons and their
6 agents are exempt from the licensing and other requirements
7 established by this subchapter:

8 (1) a franchised motor vehicle dealer or independent
9 motor vehicle dealer who holds a general distinguishing number
10 issued by the department under Chapter 503;

11 (2) a vehicle lessor holding a license issued by the
12 department [~~Motor Vehicle Board~~] under Chapter 2301, Occupations
13 Code, or a trust or other entity that is specifically not required
14 to obtain a lessor license under Section 2301.254(a) of that code;
15 and

16 (3) a vehicle lease facilitator holding a license
17 issued by the department [~~Motor Vehicle Board~~] under Chapter 2301,
18 Occupations Code.

19 SECTION 13. Section 1006.152, Transportation Code, is
20 amended by adding Subsection (f) to read as follows:

21 (f) The authority may recover from an insurer requesting a
22 refund under this section any costs associated with a denied or
23 improperly requested refund.

24 SECTION 14. Section 1006.153, Transportation Code, is
25 amended by adding Subsections (b-1), (b-2), and (b-3) and amending
26 Subsection (e) to read as follows:

27 (b-1) A penalty shall be imposed on an insurer for the

1 delinquent payment of the fee required by this section or the
2 delinquent filing of any report of the fee required by rule. The
3 penalty shall be assessed in the manner prescribed for the
4 assessment of a penalty for a delinquent tax payment or filing of a
5 report under Section 111.061(a), Tax Code. Interest accrues in the
6 manner described by Section 111.060, Tax Code, on any fee paid after
7 the due date in Subsection (b).

8 (b-2) The authority may audit or contract for the audit of
9 fees paid by an insurer under this section.

10 (b-3) A determination under this section shall be made in
11 accordance with procedures the authority adopts by rule. An insurer
12 assessed a penalty or interest under Subsection (b-1) may appeal
13 the assessment to the authority. The authority shall make the final
14 decision on the appeal by a simple majority vote. The appeal of an
15 assessment of a penalty or interest is not a contested case under
16 Chapter 2001, Government Code.

17 (e) Out of each fee collected under Subsection (b) or an
18 amount collected under Subsection (b-1):

19 (1) 20 percent shall be appropriated to the authority
20 for the purposes of this chapter;

21 (2) 20 percent shall be deposited to the credit of the
22 general revenue fund, to be used only for criminal justice
23 purposes; and

24 (3) 60 percent shall be deposited to the credit of the
25 designated trauma facility and emergency medical services account
26 under Section 780.003, Health and Safety Code, to be used only for
27 the criminal justice purpose of funding designated trauma

1 facilities, county and regional emergency medical services, and
2 trauma care systems that provide trauma care and emergency medical
3 services to victims of accidents resulting from traffic offenses.

4 SECTION 15. Section 1006.154, Transportation Code, is
5 amended by adding Subsection (d) to read as follows:

6 (d) For purposes of Subsection (b), administrative expenses
7 do not include administrative expenses related to the collection of
8 a fee under Section 1006.153, including salaries.

9 SECTION 16. (a) Section 1006.153(b-1), Transportation
10 Code, as added by this Act, applies only to a fee due on or after the
11 effective date of this Act. A fee due before the effective date of
12 this Act is governed by the law in effect on the date the fee was
13 due, and the former law is continued in effect for that purpose.

14 (b) Section 503.009(b), Transportation Code, as reenacted
15 and amended by this Act, applies only to a hearing under Chapter
16 503, Transportation Code, that is commenced on or after the
17 effective date of this Act. A hearing commenced before the
18 effective date of this Act is governed by the law in effect
19 immediately before the effective date of this Act, and that law is
20 continued in effect for that purpose.

21 SECTION 17. This Act takes effect September 1, 2021.